

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ADRIAN SWANSON JR.,

Case No. 2:20-cv-01799-GMN-EJY

Plaintiff,

ORDER

v.

NDOC, et al.,

Defendants.

**I. DISCUSSION**

This action began with a civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. (ECF No. 1-1.) On June 11, 2021, the Court issued a screening order dismissing Plaintiff's complaint with leave to amend and directed Plaintiff to file an amended complaint within thirty days. (ECF No. 10.) Shortly after the Court issued its order, Plaintiff filed a change of address. (ECF No. 12.) On June 23, 2021, the Court sent a copy of the screening order to Plaintiff's new address. (ECF No. 13-1.) It is now well past the thirty-day deadline, even factoring in any delay due to Plaintiff's change of address, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of

1 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming  
2 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
3 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
4 local rules).

5 In determining whether to dismiss an action for lack of prosecution, failure to obey  
6 a court order, or failure to comply with local rules, the court must consider several factors:  
7 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
8 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
9 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
10 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
11 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

12 Here, the Court finds that the first two factors, the public's interest in expeditiously  
13 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
14 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
15 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
16 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
17 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
18 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
19 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
20 the court's order will result in dismissal satisfies the "consideration of alternatives"  
21 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
22 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint within  
23 thirty days expressly stated: "It is further ordered that, if Plaintiff fails to file an amended  
24 complaint curing the deficiencies outlined in this order, this action will be dismissed with  
25 prejudice for failure to state a claim." (ECF No. 10 at 8.) Thus, Plaintiff had  
26 adequate warning that dismissal would result from his noncompliance with the Court's  
27 order to file an amended complaint within thirty days.

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It is therefore ordered that this action is dismissed with prejudice based on Plaintiff's failure to file an amended complaint in compliance with this Court's June 11, 2021, order.

DATED THIS 19 day of August 2021.

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